



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

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San Francisco, CA 94105-3901

Reading

May 3, 2007

Clyde Morris
U.S. Fish and Wildlife Service
Don Edwards San Francisco Bay NWR
9500 Thornton Avenue
Newark, CA 94560

Yvonne LeTellier
U.S. Army Corps of Engineers
1455 Market Street
San Francisco, CA 94103

Subject: EPA Comments on the Draft Programmatic Environmental Impact Statement (PEIS)
for the South Bay Salt Ponds Restoration Project, Alameda, Santa Clara, and San
Mateo Counties, California (CEQ #20070083)

Dear Mr. Morris and Ms. LeTellier:

The U.S. Environmental Protection Agency (EPA) has reviewed the Draft Programmatic Environmental Impact Statement (Draft PEIS) for the South Bay Salt Ponds (SBSP) Restoration Project, pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) and Section 309 of the Clean Air Act. The Draft PEIS analyzes the proposed management strategy for 15,100 acres of former commercial salt ponds in South San Francisco Bay and includes an adaptive management strategy to restore tidal habitat and create managed pond habitat. EPA supports this restoration project and the environmental benefits that will be achieved through the eventual restoration of the South Bay.

Based on our review, we have rated the Draft PEIS as Environmental Concerns - Insufficient Information (EC-2). A *Summary of EPA Ratings* is enclosed. Additional information and clarification is needed in the PEIS to identify the strategy for NEPA compliance for the separate, but closely-related, U.S. Army Corps of Engineers' (Corps) South San Francisco Bay Shoreline Study (Shoreline Study). In addition, EPA is concerned that the Draft PEIS does not sufficiently address how the programmatic and project-level documents will address air quality conformity.

The alternatives in the Draft PEIS analyze options for a 50-year management plan for the area and "Phase 1" project-level activities of the SBSP Restoration Project. The Draft PEIS also is intended to serve as the "tiering document" for future phases of both the SBSP Restoration Project and the Shoreline Study, a separate effort to provide flood protection, environmental

restoration, and improvements to recreational and public access for the South Bay. The Corps is also preparing a separate EIS for the first component of the Shoreline Study (Alviso Ponds and Santa Clara County Interim Feasibility Study) which will tier off of the SBSP Restoration Project PEIS.

EPA is concerned that the intent of this Draft PEIS is to provide programmatic NEPA compliance for areas outside the geographic scope covered. Specifically, the overall geographic scope of the Shoreline Study exceeds the geographic scope of the SBSP Restoration Project Draft PEIS, yet this Draft PEIS is intended to serve as a programmatic EIS which the Shoreline Study will tier-off of when future projects are proposed. Although alternatives for the Shoreline Study are not currently developed at this time, the Final PEIS for the Restoration Project should clarify what specific Shoreline Study activities are intended to be covered programmatically by this NEPA documentation and how the tiering process would work for future analysis of interim feasibility studies. The Final PEIS should outline the future NEPA compliance process for feasibility studies that would occur outside of the geographic scope of the SBSP Restoration Project or would result in activities or impacts that are not assessed in the SBSP Restoration Project Draft PEIS.

EPA is also concerned that the Draft PEIS does not sufficiently address how the programmatic and project-level documents will address conformity to the area's air quality state implementation plan. EPA recommends the Final EIS address the applicability of conformity for Phase 1 of the SBSP Restoration Project and identify the process and timeframe to determine conformity for future phases of the SBSP Restoration Project and the separate Shoreline Study. EPA also recommends reducing construction and operation-related air quality impacts and avoiding activities that will disturb (i.e., create airborne dust) mercury-contaminated sediments that may affect nearby residents and sensitive receptors. Please see the enclosed Detailed Comments for a description of these concerns and our recommendations.

EPA supports this project and the environmental benefits that will be achieved through the eventual restoration of the South Bay. EPA notes that the Draft PEIS identifies that the likely environmentally preferred alternative will be a possible outcome somewhere between the range of Alternative B – Managed Pond Emphasis (50:50 tidal habitat: managed ponds by area) and Alternative C – Tidal Emphasis (90:10 tidal habitat: managed ponds by area) due to the integral adaptive management component of this project. As the intent of the adaptive management strategy is to avoid and reduce the potential of significant environmental impacts, EPA recommends that the project proponents strive to restore natural, self-sustaining tidal habitat to the greatest degree possible.

We appreciate the opportunity to review this Draft PEIS. When the Final EIS is released for public review, please send three copies to the address above (mail code: CED-2). If you have any questions, please contact me or Susan Sturges, the lead reviewer for this project. Susan can be reached at 415-947-4188 or sturges.susan@epa.gov.

Sincerely,



For

Nova Blazej, Manager
Environmental Review Office

Enclosures:

EPA's Detailed Comments
Summary of EPA Rating Definitions

cc: John Krause, California Department of Fish and Game
Marie Galvin, EDAW

Scope of NEPA Compliance

EPA is concerned that the intent of this Salt Bay Salt Ponds (SBSP) Restoration Project Draft Programmatic Environmental Impact Statement (Draft PEIS) is to provide programmatic National Environmental Policy Act (NEPA) compliance for areas outside the geographic scope covered. The overall geographic scope of a future, separate South San Francisco Bay Shoreline Study (Shoreline Study) exceeds the geographic scope of this Draft PEIS, yet this Draft PEIS is intended to serve as a "programmatic" EIS which the separate Shoreline Study will tier-off of for future projects.

The Draft PEIS indicates that future feasibility studies of the Shoreline Study will tier off this Draft PEIS, including the first interim feasibility study for Alviso Ponds and Santa Clara County. The document also identifies activities that may occur with the separate Shoreline Study, such as the possible taking of homes, or the construction of a floodwall, that are not assessed in the Draft PEIS. While the Draft PEIS indicates that the assessment of the Shoreline Study in the SBSP Restoration DEIS is not meant to be conclusive, nor meant to provide adequate coverage pursuant to NEPA, it is not clear to what extent this Draft PEIS will provide NEPA compliance documentation.

Recommendations:

The Final PEIS should clarify what specific activities and areas associated with the separate Shoreline Study are intended to be covered programmatically by this SBSP Restoration Project PEIS and how the tiering process would apply to future interim feasibility studies. The Final EIS should specifically identify the future NEPA compliance efforts for feasibility studies that would occur outside of the geographic scope of the SBSP Restoration Project or would result in activities or impacts that are not assessed in this SBSP Restoration Project Draft PEIS.

Air Quality

National Ambient Air Quality Standards (NAAQS)

The San Francisco Bay Area is designated as nonattainment for the federal ozone standard, and is a maintenance area for carbon monoxide (CO). Further, while EPA has not yet designated areas as non-attainment for the new 24-hour standard for Particulate Matter with a diameter of 2.5 microns or less (PM_{2.5}), preliminary monitoring data indicate that the San Jose monitor is recording violations of the new standard and monitors in Livermore and Concord are very close to violating the standard. The Draft PEIS includes tables that summarize the ambient air quality both regionally and in the vicinity of the SBSP restoration area (See Tables 3.14-2 3.14-4.). The tables provide data regarding several pollutants, but do not include PM_{2.5}.

Recommendation:

- Consider the impact on the ambient level of PM_{2.5}, both locally and regionally, in the Final PEIS.
- Include data for PM_{2.5} to the tables. Additionally, the data for all pollutants should be updated to include data for 2006, which should be available before the Final PEIS is completed. Also note that the title of Table 3.14-2 indicates that it contains data from 1998 to 2005, but the earliest year represented is 2000. Please correct the table accordingly.

General Conformity

The Draft PEIS includes a brief discussion of general conformity requirements, but does not include an analysis of applicability. Rather, it postpones that determination to a future time, "before the record of decision is signed."

Recommendations:

- Since this programmatic Draft PEIS also includes a project-level decision for Phase 1 activities of the SBSP Restoration Project, the Final EIS should specifically address the applicability of general conformity to Phase 1 activities of the SBSP Restoration Project.
- Identify in the Final PEIS how and when conformity will be determined for future phases of both the SBSP Restoration Project and the Shoreline Study.
- The Final PEIS should include a determination of whether the Phase 1 activities meet the requirements of general conformity. It should discuss, and quantify where feasible, short and long-term emissions of criteria air pollutants from implementation of the proposed project. The document should also demonstrate that total direct and indirect emissions will not cause or contribute to any new violation of any standard, interfere with maintenance of any standard, increase the frequency or severity of any existing violation of any standard, or delay timely attainment of any standard (i.e., General Conformity Determination, 40 CFR Part 93 Subpart B). If air quality standards are exceeded, the Final EIS needs to include appropriate mitigation measures.

Construction Mitigation Measures

In order to reduce construction and operation-related air quality impacts, which include both diesel particulate as well as precursors to ozone and PM_{2.5}, EPA recommends the project proponent consider, and discuss in the Final EIS, opportunities for reducing impacts to air quality by reducing the use of diesel-powered equipment, requiring contractors to keep the equipment fine-tuned, or using alternative fueled vehicles. EPA is aware of the serious health effects that diesel particulate and other fine particulates can cause and urges project proponents to reduce particulate emissions to the greatest extent possible.

Recommendations:

Commit to specific construction emissions mitigation measures to minimize diesel particulate matter (DPM) impacts and include plans for fugitive dust control in the Final PEIS and Record of Decision (ROD). EPA provides the following recommendations to incorporate into the Final EIS, where feasible and applicable:

- Establish an activity schedule designed to minimize traffic congestion around the construction site.
- Utilize EPA-registered particulate traps and other appropriate controls to reduce emissions of diesel particulate matter and other pollutants at the construction site.
- Locate construction equipment and staging zones away from sensitive receptors such as children and the elderly as well as away from fresh air intakes to buildings and air conditioners.
- Use low sulfur fuel (diesel with 15 parts per million or less).
- Reduce use, trips, and unnecessary idling from heavy equipment.
- Lease newer and cleaner equipment (1996 or newer).
- Periodically inspect construction sites to ensure construction equipment is properly maintained at all times.

Entrained Mercury in Dust Emissions

There are several known health concerns associated with inhalation and ingestion exposure to mercury compounds (<http://www.epa.gov/mercury/effects.htm>). Mercury is a neurological toxic and can cause effects such as mood swings, memory loss, and muscle weakness in adults. Exposure to mercury is of particular concern to pregnant women, fetuses, infants, and young children, since exposure to methylmercury may lead to impaired neurological development, affecting a baby's growing brain and nervous system.

Recommendation:

In the Final PEIS, specifically commit to avoiding activities that will disturb (i.e., create airborne dust) mercury-contaminated sediments in the vicinity (i.e., within a 1000 feet), of residents and other sensitive receptors to the extent feasible. If activity must occur within 1000 feet of residences and sensitive receptors, the Final PEIS should provide details regarding how the project proponents will inform the nearby residences of the activity, and encourage everyone, especially pregnant women and young children, to avoid exposure to the mercury-contaminated dust.

**U.S. Environmental Protection Agency Rating System for
Draft Environmental Impact Statements
Definitions and Follow-Up Action***

Environmental Impact of the Action

LO – Lack of Objections

The U.S. Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC – Environmental Concerns

EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO – Environmental Objections

EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU – Environmentally Unsatisfactory

EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 – Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 – Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 – Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.